

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DAVID CRUMBY,

Plaintiff,

v.

CIVIL ACTION NO. 5:13-cv-01832

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's letter-form complaint (Document 1) filed in this matter on February 1, 2013.

By *Standing Order* (Document 2) entered on February 1, 2013, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On October 29, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 4) wherein it is recommended that this Court dismiss this case without prejudice for failure to prosecute and remove the matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by November 15, 2013.¹

¹ The docket reflects that the *Proposed Findings and Recommendation* mailed to the Plaintiff was returned as undeliverable on 11/6/13, and re-mailed to a different address on that date. As of November 25, 2013, no objections had been filed.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that this matter be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute and be **REMOVED** from this Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: November 26, 2013


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA